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OFFICE OF PETITIONS

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| In re Patent No. 6,966,660 | : | |
| Buccellato et al. | : | |
| Issue Date: November 22, 2005 | : | DECISION ON APPLICATION |
| Application No. 09/418,730 | : | FOR |
| Filed: October 15, 1999 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 55124USA7A | : | |

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154," filed November 14, 2005. Then applicants requested reconsideration of the patent term extension on the basis that the Office mailed the first Office action under 35 U.S.C. 132 more than fourteen months after the filing of a continued prosecution application (CPA) in this application. See § 1.703(a)(1).

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED.**

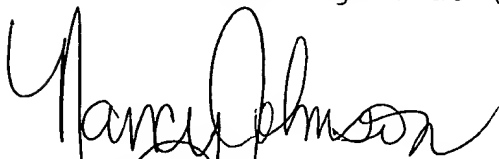
Patentees are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

35 U.S.C. 154(b) provides for patent term adjustment (not extension) for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On March 17, 2005, the Office mailed a Determination of Patent Term Extension under 35 U.S.C. 154(b) in the above-identified application¹. The Notice stated that the patent term extension to date is 0 days. This initial determination did not include a period of adjustment for Office delay in mailing the first Office action. PALM records indicate that the issue fee payment was received in the Office on June 9, 2005. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended June 9, 2005. Accordingly, it is appropriate to dismiss this petition as untimely filed.

The \$200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 13-3723, as authorized. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

¹ As implicitly recognized by applicants, by virtue of the filing of a continued prosecution application (CPA) on September 12, 2000, this application became eligible for patent term adjustment due to examination delay.